

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

March 31, 2006

In the Matter of
First Acura

Docket No. 2006-037
File No. PAN-SE-06-9001-2

Docket No. 2006-038
File No. UAO-SE-06-9001-2


RECOMMENDED FINAL DECISION

First Acura filed a Notice of Claim for an adjudicatory hearing seeking review of a Notice of Intent to Assess a Civil Administrative Penalty (PAN) and Unilateral Administrative Order (UAO). On March 9, 2006 I issued an Order to File a More Definite Statement requiring the petitioner to file by March 21, 2006, copies of both appealed documents as required by 310 CMR 1.01(6)(b). In addition, the Order required payment by the same date of an additional \$100 appeals filing fee for its second appeal, or if the petitioner intended to file only one appeal, a selection of which appeal the petitioner wished to pursue. The Order included notice that if the required documents were not submitted, the appeal would be dismissed pursuant to 310 CMR 1.01(6)(b), and that failure to pay the filing fee would be grounds for dismissal of a claim pursuant to 310 CMR 4.06(1)(c) and (d).

Nothing was filed in response to the Order, and the second appeals filing fee has not been paid. The petitioner was put on notice that if the information required by the Order was not

For special accommodations for this event, contact Deneen M. Simpson at this address or call (617) 556-1003.
This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>

 Printed on Recycled Paper

provided by the deadline established, the claim would be dismissed pursuant to 310 CMR 1.01(6)(b). As the petitioner has failed to respond to the Order and failed to pay the required appeals filing fee, indicating an intention not to prosecute either of these claims, I recommend dismissal of the petitioner's Claim. Specifically, I recommend that this appeal be dismissed for failure to prosecute pursuant to 310 CMR 1.01(5)(a)15.f.vi., 310 CMR 1.01(6)(b) and 310 CMR 1.01(10).

NOTICE

This decision is a recommended final decision of the Presiding Officer. It has been transmitted to the Commissioner for his final decision in this matter. This decision is therefore not a final decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's final decision is subject to the rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this recommended final decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in his sole discretion directs otherwise.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Ann Lowery
Presiding Officer

Adopted by Commissioner Robert W. Golledge, Jr., April 11, 2006.

